

**TOWN OF DAVIE  
TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

**PREPARED BY:** Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

**SUBJECT:** December 17, 2008 minutes

**AFFECTED DISTRICT:** n/a

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** December 17, 2008 (Regular Meeting)

**REPORT IN BRIEF:** Council minutes from the December 17, 2008 Council meeting.

**PREVIOUS ACTIONS:** n/a

**CONCURRENCES:** n/a

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):** Motion to approve

**Attachment(s):** December 17, 2008 minutes

**TOWN OF DAVIE  
REGULAR MEETING  
DECEMBER 17, 2008**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 6:31 p.m. and was followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present at the meeting were Mayor Truex, Vice-Mayor Luis, and Councilmembers Crowley and Starkey. Also present were Town Administrator Shimun, Town Attorney Rayson, and Town Clerk Muniz recording the meeting.

**3. PRESENTATIONS**

Mayor Truex presented a certificate of appreciation to Santa Claus for attending the Lighting of the Greens event.

3.1 District 1 Letters of Interest (tabled from December 3, 2008)

Councilmember Crowley made a motion, seconded by Vice-Mayor Luis, to appoint Bryan Caletka. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Starkey - no. (Motion failed 2-2)

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to appoint Ms. Hubert. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion passed 4-0)

Assistant Town Clerk McDaniel administered the oath of office to Ms. Hubert who then joined Council on the dais.

3.2 Veteran Park Dedication Volunteers

Special Projects Director Bonnie Stafiej thanked everyone who had worked as a volunteer. Mayor Truex distributed certificates of appreciation.

3.3 Davie-Cooper City Relay for Life - Elliot Kleiman

Elliot Kleiman gave a brief presentation describing the Relay for Life and asked everyone to visit [www.Relay2009.com](http://www.Relay2009.com) for further information. Mr. Kleiman announced that the kickoff meeting would be held on January 15, 2009 at 6:30 p.m. at the Police Department headquarters.

Councilmember Starkey asked staff to create a link to the presentation on the Town's website and to include information regarding this in the next Davie Update.

Mayor Truex recessed the meeting at 7:02 p.m. and the meeting reconvened at 7:09 p.m.

Mayor Truex advised that staff had requested item 4.7 be tabled to January 7, 2009

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex stated the petitioner for item 6.6 had requested this be tabled to January 7, 2009,

Councilmember Starkey made a motion, seconded by Vice-Mayor Luis, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that items 3.4, 4.12 and 9.2 needed to be added.

Vice-Mayor Luis made a motion, seconded by Councilmember Starkey, to add items 3.4, 4.12 and 9.2. In a voice vote, all voted in favor. (Motion carried 5-0)

#### 3.4 Certificate of Completion - Councilmember Susan Starkey

Mayor Truex presented Councilmember Starkey a Certificate of Completion from the Advanced Institute for Elected Municipal Public Employees, by the Florida League of Cities and the John Scott Daly Florida Institute of Government. Councilmember Starkey explained that this course concerned municipal government issues and encouraged all elected officials to attend.

## 4. APPROVAL OF CONSENT AGENDA

### *Minutes*

4.1 November 5, 2008 (Regular Meeting) (tabled from December 3, 2008)

4.2 November 19, 2008 (Regular Meeting)

### *Proclamation*

4.3 Rick Case Bikes for Kids Day (December 17, 2008)

### *Resolution*

4.4 **MITIGATION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NOS. 06-425 AND 07-1008 FROM \$143,600.00 IN AMOUNT TO \$10,000.00; AND PROVIDING AN EFFECTIVE DATE.** (tabled from December 3, 2008)

4.5 **DESIGN ISSUES - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA URGING THE FLORIDA DEPARTMENT OF TRANSPORTATION TO ADDRESS CERTAIN DESIGN ISSUES RELATED TO THE I-595 RECONSTRUCTION PROJECT FM# 420809-3-52-01 AND AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SUCH DOCUMENT.** (tabled from December 3, 2008)

- 4.6      **SELECTION OF FIRM** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF ACAI ASSOCIATES, INC. TO DESIGN AND LOCATE BUS SHELTERS AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
- 4.7      **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ACCEPT THE BID RECOMMENDATION FOR CONCRETE SIDEWALK/CURBING REPAIR AND INSTALLATION SERVICES.
- 4.8      **BID EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN EXTENSION OF THE BID BETWEEN THE TOWN AND ADVANCED ROOFING, INC. FOR ROOFING CONTRACTOR SERVICES.
- 4.9      **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN ADDENDUM AGREEMENT WITH BELLSOUTH FOR THE PURCHASE OF THE PRIMARY RATE INTERFACE COMMUNICATIONS SERVICES FOR A PERIOD OF 37 MONTHS. (\$4,113.25/Month)
- 4.10     **BUDGET TRANSFER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING BUDGET TRANSFERS WITHIN THE ESTIMATED GENERAL FUND APPROPRIATIONS FOR FISCAL YEAR 2008.

*Quasi-Judicial Consent Agenda*

- 4.11     SPM 8-4-05, Tijuana Taxi, 400 South University Drive (B-1) *Site Plan Committee recommended approval subject to the planning report and the following: 1) that the Committee recommends to Council that it look at providing some kind of variance on the north parking so that "straight in" parking could replace the parallel parking in order to increase the parking count; 2) that the applicant would look into insulating the roof and the floor on the new addition; 3) no "string" lighting on the exterior; 4) there will be a new hedge at the wall on the east side, 3-foot high, Coco Plum, (where it shows existing will now be new); and 5) there will be zero outdoor seating of any kind for eating, dining, drinking or smoking and no outdoor speakers or sound devises outside the building except for a burglar alarm*

*Item to be added*

- 4.12     Broward Diversity Community Month (January 2009)

Councilmember Crowley pulled item 4.11 from the Consent Agenda. Councilmember Hubert pulled items 4.4 and 4.10. Councilmember Starkey pulled item 4.2. Mayor Truex pulled items 4.6 and 4.12.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve the Consent Agenda, less items 4.2, 4.4, 4.6, 4.10, 4.11 and 4.12. In a voice vote, all voted in favor. (Motion carried 5-0)

## **5. DISCUSSION OF CONSENT AGENDA ITEMS**

4.3 Earlier in the meeting, Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve. In a voice vote, all voted in favor. (Motion carried 4-0)

Mayor Truex read the proclamation. Rick Case asked anyone wishing to donate a bicycle to bring it to any Rick Case dealership.

4.2 Councilmember Starkey stated that in the first paragraph on page 31, she wanted the minutes to include that Council agreed to the creation of the Citizens Academy, provided it was within the budget. She asked staff to listen to the recording.

Councilmember Crowley made a motion, seconded by Mayor Truex, to table item 4.2. In a voice vote, all voted in favor. (Motion carried 5-0)

4.4 Councilmember Hubert said that she could not understand how the fees had increased so drastically. She did not want to penalize the person who had cleaned up the property; she wanted to charge him only for the Town's out-of-pocket expenses of \$3,032.94. Code Compliance Official Danny Stallone explained that the mitigation guidelines had been changed to incorporate an additional factor, in order for the fines to be punitive. The \$3,032.94 in costs was for the case to be heard three times at a Special Magistrate hearing.

Mayor Truex remarked that increasing fines for the mitigation amount was counter-intuitive and believed there was a problem with the rules. Mr. Stallone explained that since the original owner had passed away, there was a long period when the Town could not communicate with anyone responsible for the property. Councilmember Hubert stated that the person who inherited the property had been unaware it must go through probate, but as soon as he was aware of the problems at the property, he had cleaned it up. Mayor Truex pointed out that the neighbors had been forced to tolerate the property in bad condition for some time. He believed reducing the fine to \$10,000 was generous. Mr. Stallone stated that the new owner had cleaned the property only after he realized that mitigation could only be initiated after all of the violations were corrected.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to set the fine at \$7,500.

Mr. Stallone clarified that if the fine was not paid within 45 days, it would revert back to the original amount. Councilmember Hubert felt the owner, who was on disability, would not be able to pay the fine within 45 days, and the issue would come before Council again. Theodore Kauffman, probate attorney, informed Council that there was a contract pending on the property, and the fine should be paid within 45 days.

In a voice vote, with Councilmember Hubert dissenting, all voted in favor. (Motion carried 4-1)

4.6 Mayor Truex asked if the shelters would allow advertising. Planning and Zoning Manager David Quigley explained that advertising would be permitted, and the EASE Foundation was responsible for maintenance. Mayor Truex requested that the motion include the fact that proceeds from advertising would continue to go to the EASE Foundation.

Mr. Quigley confirmed for Councilmember Starkey that shelter designs would be approved by Council.

Councilmember Crowley made a motion, seconded by Vice-Mayor Luis, to approve with the condition that the fees/donations go to the EASE Foundation and that advertising would not be precluded from the designs. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Starkey asked to hear item 8.2 out of order and Council agreed.

4.10 Councilmember Hubert asked if the Town had all of the employees they were supposed to have, and remarked that the budget was “really out of whack if this is the number that they can afford to give up.” Budget and Finance Director Bill Ackerman explained that auditors had recommended that the Town examine all departments at the end of the fiscal year and make revisions to reduce variances. Mr. Ackerman continued that some funds in the General Fund were deposited for Capital Projects use, and these must be transferred to Capital Projects at the end of the year. Staff had decided to transfer funds for other departments as well and Mr. Ackerman pointed out that all departments were under budget for the year.

Councilmember Hubert noted that there were several vacant positions in the Fire and Police Departments. Mr. Ackerman stated that public safety was comfortable with the number of positions for the coming fiscal year.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.11 Mr. Rayson swore in witnesses. Deputy Planning and Zoning Manager David Abramson summarized the staff report.

Mr. Abramson advised that the site plan would bring any violations at the property into compliance. Frank Costoya, project architect, stated that the applicant had worked with staff to get the property into compliance and described the changes made to the site plan to accomplish this.

Councilmember Crowley asked if the applicant had considered pull-in instead of parallel parking. Mr. Costoya explained that they needed the additional space to meet landscape requirements and they would need a variance to avoid this. Councilmember Crowley asked what the owner would do to mitigate noise regarding insulation of the floor. Mr. Costoya stated that they might remove the wood deck and replace it with a concrete slab and a wood deck or install concrete underlayment.

Mr. Costoya stated that there were functional sliding glass windows/doors, but they would have a four-foot high retaining wall outside, which should mitigate any noise. To prevent noise in the neighborhood, Councilmember Crowley wanted a promise that the doors would never be opened. Mr. Costoya explained to Vice-Mayor Luis that the impact resistant windows would also help mitigate noise.

Mr. Rayson opened the public hearing portion of the meeting.

Gordon Bateman said that he had battled this restaurant for four years and had attended 15 Special Magistrate hearings regarding this property. He stated that the noise and aesthetic issues were the most serious. Mr. Bateman did not believe the sliding glass doors/windows would solve noise issues. He suggested relocating the ADA access ramp to the University (west) side of the deck to lessen potential noise into the residential neighborhood. Mr. Bateman opposed any increase in bar space at the property. He remarked on the lack of adequate parking on the property and the neighborhood eyesore issue the signage created.

Councilmember Crowley asked if the wall had mitigated the sound. Mr. Bateman said that it had reduced "quiet conversation" noise, but not louder noise.

Councilmember Starkey asked staff if the proposed changes would address the neighbors' concerns and safety complaints. Fire Chief Joe Montopoli said that the site plan amendments and the enclosing of the outdoor seating area were changes that staff had sought. He agreed that the windows should not be a style that could open. If noise from the parking lot was excessive, Chief Montopoli suggested a security detail. He believed that if these measures and the recommendations of the Site Plan Committee were instituted, the problems would be resolved.

Mr. Stallone felt parking lot lighting should be improved. He informed Mayor Truex that there were \$44,750 in Code Enforcement fines at the property, \$6,000 of which had been paid.

Vice-Mayor Luis thought the changes would substantially mitigate the problems.

As no one else spoke, Mr. Rayson closed the public hearing portion of the meeting.

In response to Mr. Bateman's concerns, Mr. Costoya pointed out that the building's east side and a portion of the south side were a windowless concrete wall. Regarding relocating the ADA ramp, Mr. Costoya remarked that this was required and it made sense in this location.

Councilmember Crowley was still concerned about the noise impact. Mr. Costoya reiterated that there would be a structural envelope of concrete walls that would contain the sound. He said that he could not agree to replace the sliding windows. Councilmember Crowley was not convinced the sound would be contained.

Phil Silverthorn, the business owner, thought this would be a satisfactory compromise to allow customers to enjoy the outdoors. He agreed the windows would be closed by 10 p.m. and confirmed that the east side of the building that faced the homes was sealed.

Mr. Costoya stated that the parking area lights complied with the Town's requirements. Mr. Abramson stated that the establishment met the on-site parking requirements.

Council gave their disclosures.

Vice-Mayor Luis made a motion to approve with the condition that the windows be shut after 10 p.m. Motion died for lack of a second.

Councilmember Starkey asked the owner's intent regarding the remaining Code Enforcement fines. Mr. Silverthorn stated that he had been advised to go through this process first and then go through mitigation regarding the fines.

Mayor Truex did not feel the problems would be corrected and with the property's history of problems, it seemed the owner had not made an effort to comply with the noise ordinance and the Town Codes.

Councilmember Crowley made a motion to approve subject to including the Site Plan Committee recommendations, changing recommendation 2 to indicate the applicant *will* insulate the roof and floor, the stipulation that the addition's sliding windows would be closed at all times, and the gaps in the wall that now had cracks would be grouted.

Mayor Truex suggested installing windows that could not be opened.

Councilmember Crowley amended his motion to include that if there were new noise or open window violations at the property, these would be presented to Council and an off-duty police officer would be required on the property.

Mr. Silverthorn explained that the establishment already had a police detail on Thursday and Friday nights.

Mayor Truex seconded Councilmember Crowley's motion.

Mr. Silverthorn requested the ability to have the windows open until 10 p.m. because the customers enjoyed this.

In a voice vote, all voted in favor. (Motion carried 5-0)

4.12 Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

## **6. PUBLIC HEARING**

### *Ordinances - Second and Final Reading*

- 6.1 **VACATION - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION APPLICATION VA 6-1-08 "ROSS", VACATING PORTIONS OF RIGHT-OF-WAY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 6-1-08, Ross, 4301 SW 95 Avenue) *Planning and Zoning Board recommended approval subject to the stipulations which the applicant had agreed to [1) not to enlarge the stable/barn structure and 2) to move all the fences to the center line of the old right-of-way which would be the new property line] {Approved on First Reading December 3, 2008 subject to the Planning and Zoning Board's recommendation. All voted in favor.}***

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Mr. Quigley recommended a restrictive covenant on the property regarding the Planning and Zoning Board recommendations.

Vice-Mayor Luis made a motion, seconded by Councilmember Starkey, to approve including the recommendations of the Planning and Zoning Board. In a roll call



vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - out of the room. (Motion passed 4-0)

- 6.2 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 11-1-07, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO CF, COMMUNITY FACILITIES DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 11-1-07, Norwegian Seamen's Church, 2950 South Flamingo Road) *Planning and Zoning Board recommended approval subject to any restrictions which the Town had asked for in terms of not for a school use and the residence apartments for none other than rectory/church staff; and subject to staff's comments (none made) {Approved on First Reading December 3, 2008 subject to the deed restrictions as agreed to, that it would be church to church and any other use would revert back to the original zoning and waive sovereign immunity. All voted in favor.}***

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Mr. Quigley recommended a restrictive covenant on the property regarding the Planning and Zoning Board recommendations. Jon Voigt, representing the applicant, said that he had already submitted one.

Vice-Mayor Luis made a motion, seconded by Mayor Truex, to approve subject to the items on which Council agreed at the previous meeting and staff's additional suggestions this evening. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion passed 5-0)

*Ordinances - First Reading (Second and Final Reading to be held January 7, 2009)*

- 6.3 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES BY AMENDING CHAPTER 2, ARTICLE VIII, SECTIONS 2-315, 2-316, AND 2-323 OF THE TOWN OF DAVIE'S PURCHASING PROCEDURES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on January 7, 2009.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey did not support this issue because she felt Council should have more control over procurement items. She said that she mainly objected to the increase in the contract signing from \$5,000 to \$25,000.

Mr. Shimun confirmed for Mayor Truex that the increase in the bid threshold from \$1,000 to \$3,000 was to counter inflation.

Councilmember Crowley made a motion, seconded by Vice-Mayor Luis, to approve.

Councilmember Hubert agreed with Councilmember Starkey regarding the increase in the contract signing. Vice-Mayor Luis felt increasing the contract signing from \$5,000 to \$25,000 would make the Town more efficient.

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Hubert - no; Councilmember Starkey - no. (Motion failed 2-3)

Councilmember Starkey made a motion, seconded by Councilmember Hubert, to approve with the condition that the procurement amount was raised from \$1,000 to \$2,500, and that the Mayor's signature requirements, as well as the other procurement procedures, and reviewed by attorney, remained at \$5,000. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - no; Councilmember Crowley - no; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion passed 3-2)

6.4      **CODE AMENDMENT - AN ORDINANCE OF THE DAVIE TOWN COUNCIL AMENDING CHAPTER 6 OF THE CODE OF THE TOWN OF DAVIE ENTITLED "CODE ENFORCEMENT SPECIAL MASTER," BY CREATING A NEW SECTION 6-9.2, ENTITLED "ABANDONED REAL PROPERTY REGISTRATION, ENFORCEMENT AND ABATEMENT PROCEDURES."**

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on January 7, 2009.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey made a motion, seconded by Vice-Mayor Luis, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion passed 5-0)

6.5      **AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING AN AMENDMENT TO THE ESTIMATED REVENUES AND APPROPRIATIONS FOR FISCAL YEAR 2009. (see related item 8.2)**

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on January 7, 2009.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Hubert asked for specifics regarding the help mentioned for Palma Nova. Interim Housing Director Giovanni Moss explained that based on the

Mobile Home Task Force recommendations, up to \$3,000 per household would be provided for temporary housing and/or storage and/or security deposits for new housing. He stated that the allocation would be based on level of need, that would take into consideration a relocation plan, income and special needs. Mr. Moss said that they would begin with an initial budget of \$150,000 for 50 grants, with the ability to request additional funds based on qualified applicants.

Councilmember Starkey was concerned that this would deplete the Community Endowment Fund and therefore, she could not support this item. She wanted the assistance for Palma Nova from Community Endowment to be a separate ordinance with more detail, not to exceed \$200,000. Councilmember Hubert suggested setting a \$150,000 limit.

Mayor Truex confirmed that the agreement to allow families with children in school to remain until the end of the school year was “not 100% nailed down right as we speak.”

Mr. Moss said that the Housing and Community Development Department could process 50 applications in two to four weeks. He announced that the Town had already helped 35 Palma Nova residents relocate through the Disaster Relocation Program. This had cost approximately \$235,000. Mr. Moss requested \$150,000 immediately for the 50 applicants he anticipated helping within the next month.

Mayor Truex wanted the funds to come from Reserves instead of the Community Endowment fund.

Mr. Shimun asked Mr. Rayson if the Town should act now, as he anticipated the Town would be named in a lawsuit. Mr. Rayson explained that the Town was named in a class action lawsuit filed by Janet Riley on behalf of residents of Palma Nova. Councilmember Starkey asked Mr. Rayson if the Town’s insurance would cover the cost of a lawsuit. Mr. Rayson did not believe so because the lawsuit alleged that “there were statements made from the dais that were knowingly false.”

Vice-Mayor Luis was concerned that the Town was not set up to determine that residents with the greatest need received the help.

Councilmember Crowley asked Mr. Moss about additional requests for funds. Mr. Moss replied that he did not think there would be many additional requests. He recommended that the criteria now used in the Disaster Relocation Program be adopted for this program.

Councilmember Hubert remarked that this was a catastrophe for the Town and Palm Nova residents needed “someone to stick up for them.” She agreed with allotting \$150,000. Mayor Truex pointed out that the Town spent millions of dollars on amenities for equestrians and this request related to very basic housing needs.

Councilmember Starkey made a motion to approve 6.5, items 1 through 3, the renovation of office space, the I-595 tree location budget item and the repair of the roof for \$12,000, and that the ordinance regarding the Community Endowment Fund be put in a separate ordinance for \$150,000. Motion died for lack of a second.

Mr. Shimun recommended amending the existing ordinance instead of creating a separate one, since time was of the essence for this funding.

Councilmember Starkey made a motion, seconded by Vice-Mayor Luis, to approve items 1, 2 and 3 as written in the resolution and to amend the amount from the Community Endowment Fund to \$150,000. In a roll call vote, the vote was as follows:

Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion passed 5-0)

*Quasi Judicial Item*

6.6 V 9-2-08, Keller, 12446 SW 9 Place (R-5) (to reduce a 10 foot side yard setback to 5 feet) *Planning and Zoning Board recommended approval*

This item was tabled earlier in the meeting.

**7. APPOINTMENTS**

7.1 Mayor Truex

7.1.1 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

7.2 Vice-Mayor Luis

7.2.1 Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2010) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

7.2.2 Open Space Advisory Committee Agency (one exclusive - term expires April 2010)

No appointment was made.

7.3 Councilmember Starkey

7.3.1 Open Space Advisory Committee Agency (one exclusive appointment- term expires April 2010)

No appointment was made.

7.3.2 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

7.4 Unsafe Structures Board (one non-exclusive appointment; term expires April 2009) (appointment shall be a plumbing contractor - member shall

be a permanent resident or have their principal place of business within the Town's jurisdiction)

No appointment was made.

7.5 Broward Metropolitan Planning Organization (term expires March 17, 2009)

No appointment was made.

## **8. OLD BUSINESS**

8.1 Affordable Housing Advisory Committee Affordable Housing Incentives Report and Recommendations

8.2 Funding Source for Mobile Home Task Force Final Report and Recommendations for Relocation Assistance (**see related item 6.5**)

Earlier in the meeting, Mitch Chester, Chair of the Affordable Housing Task Force, explained that there was a December 31, 2008 deadline for the Task Force to present its report to Council, and a March 30, 2009 deadline for Council to decide upon any proposed amendments. By May 2, 2009, an electronic copy of any amendments approved by Council must be transmitted to the Florida Housing Finance Corporation. Mr. Chester stated that the Task Force had developed 31 recommendations, and invited Council's questions and/or input. Mr. Shimun recommended Council hold a workshop to discuss the recommendations. There were no objections.

## **9. NEW BUSINESS**

9.1 Request for Waiver of Additional Capacity Reservation Fees - Downtown Davie

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to deny. In a voice vote, all voted in favor. (Motion carried 5-0)

9.2 Hiatus Road McDonalds - Councilmember Starkey

Jon Voigt, representing the applicant, explained that McDonalds had agreed to install a crosswalk, which the Department of Transportation had denied. He advised that McDonalds had agreed to build a sidewalk to the existing crosswalk and to perform median improvements, including a Town of Davie sign. Since they were waiting for the Town to design the sign, McDonalds wished to be granted a Certificate of Occupancy provided a bond was posted to cover up to 125% the cost of the work that they agreed to do.

Councilmember Starkey was concerned that a maintenance agreement was not included. Jeff McDonald, representing the applicant, agreed they would maintain the median. Town Engineer Le Nguyen stated that staff had agreed to the applicant's \$42,600 cost estimate and \$46,860 bond estimate. He reported that staff had received the bond letter of credit from the applicant. Councilmember Starkey wanted to ensure that the landscaping was consistent in the Hiatus Road corridor and to require that oak trees be planted there instead of gumbo limbos. She also believed irrigation would be needed in the median. Mr. McDonald said that they would agree to plant the oak trees and would utilize a watering truck until the trees were established. Mr. Quigley stated that this was

why staff had preferred the gumbo limbo; they would survive longer without the need for supplemental water.

Councilmember Starkey remembered that the agreement was for the applicant to maintain the median in perpetuity and she did not want to allow them to install a lower grade of landscaping than anywhere else in Town.

Bill Laystrom, representing the applicant, understood that the applicant would install bricks or pavers at the south end of the median strip, which had been expanded at the request of the Town's landscape architect. Regarding median maintenance, Mr. Laystrom agreed to maintain the area as they had previously discussed and indicated that the owner would agree to replace any tree that did not survive six months.

Vice-Mayor Luis made a motion to approve with the conditions that the applicant would guarantee any planted trees for 180 days, that pavers would be installed at the south end, and that the applicant would maintain the median as far as cutting.

Councilmember Starkey suggested adding all of the conditions put forward to Town staff and mentioned in the applicant's letter dated December 17, 2008. Mr. Laystrom read the conditions listed in the letter, and added that they had agreed to plant oaks instead of gumbo limbos, and agreed to water them for 16 weeks instead of 8. Vice-Mayor Luis agreed to make these additions to his motion.

Councilmember Crowley seconded the motion.

Mr. Quigley said that the applicant could receive a Certificate of Occupancy as soon as this was approved.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion passed 5-0)

## **10. SCHEDULE OF NEXT MEETING**

Councilmember Starkey suggested that a budget workshop be held at the same time as the Mobile Home workshop. Mr. Shimun felt that the budget workshop could wait as they were still in the first fiscal quarter.

## **11. MAYOR/COUNCILMEMBER'S COMMENTS**

### **VICE-MAYOR LUIS**

**PROPERTY APPRAISALS.** Vice-Mayor Luis requested Council's approval to obtain appraisals on property located next to the Farm Park. He remarked that this was a chance to acquire 20 acres at a very good price. Council agreed, provided the purchase was presented to the Open Space Advisory Committee.

**MEMORIAL HOSPITAL TRAUMA UNIT TOUR.** Vice-Mayor Luis thanked Memorial Hospital for inviting him to tour the trauma unit and he encouraged the rest of Council to do the same.

**HAPPY HOLIDAYS.** Vice-Mayor Luis wished everyone happy holidays.

### **COUNCILMEMBER STARKEY**

**HAPPY HOLIDAYS.** Councilmember Starkey wished everyone happy holidays.

**HIATUS ROAD MEDIAN.** Councilmember Starkey reported that a section of median on Hiatus Road along Long Lake West was not being maintained. She asked staff to look into this.

**USE OF DISTRICT 3 BOND FUNDS FOR DEVINE PARCEL.** Councilmember Starkey said that the Open Space Advisory Committee had requested that District 3 bond funds be used to clean up the Devine parcel. Councilmember Starkey requested that this work commence.

**MATH IGLER CITRUS PARK.** Councilmember Starkey was aware that two citrus trees had been donated to Math Iglar, but only one tree had been planted. She asked staff to look into this.

**WATER SUPPLY FACILITIES WORK PLAN STATUS REPORT APPLICATION.** Councilmember Starkey stated that the Town had not filed this for approval yet and asked staff to follow up.

**AIRPORT RECORD OF DECISION.** Councilmember Starkey distributed a memo including questions related to the Record of Decision that was due by the end of the month. Public Information Officer Braulio Rosa said that he had received no information on this, but agreed to request the public records for staff to review and to contact the Town's attorneys.

#### **COUNCILMEMBER CROWLEY**

**SHARING OPEN SPACE BOND FUNDS BETWEEN DISTRICTS.** Councilmember Crowley asked Mr. Rayson's opinion regarding sharing Open Space Bond funds between districts.

**SHIRLEY TAYLOR-PRAKELT.** Councilmember Crowley wished Shirley Taylor-Prakelt well in her retirement and suggested recognizing her contributions with a plaque.

#### **COUNCILMEMBER HUBERT**

**THANKS TO COUNCIL AND HAPPY HOLIDAYS.** Councilmember Hubert thanked Council for appointing her to the interim Council position and wished everyone happy holidays.

**ELITE DANCE AND CHEER FOOD AND TOY DRIVES.** Councilmember Hubert announced that she, Elite Dance and Cheer would sponsor a food drive and a toy drive and invited donations.

#### **MAYOR TRUEX**

**LETTER REGARDING HANDICAPPED PARKING.** Mayor Truex said that a resident had sent him a letter regarding police interpretation of the State handicapped parking statute.

**SHIRLEY TAYLOR-PRAKELT.** Mayor Truex acknowledged Ms. Taylor-Prakelt's service to the Town.

**DAVIE COMMONS.** Mayor Truex reminded everyone that the Davie Commons project had been sent to the State for review. He asked residents who opposed the project to help Council to get the developer to address their specific concerns.

#### **12. TOWN ADMINISTRATOR'S COMMENTS**

**HAPPY HOLIDAYS.** Mr. Shimun wished everyone happy holidays.

#### **13. TOWN ATTORNEY'S COMMENTS**

**COUNCILMEMBER HUBERT.** Mr. Rayson congratulated Council on selecting Ms. Hubert as their interim appointment.

**HAPPY HOLIDAYS.** Mr. Rayson wished everyone happy holidays.

Public Works Director Manny Diez promised Councilmember Starkey that the second citrus tree would be planted in the next few days.

Mr. Diez requested direction from Council regarding the design for the Devine parcel. Council agreed staff should move forward with the design and land clearing.

#### **14. ADJOURNMENT**

There being no further business to discuss and no objections, the meeting was adjourned at 10:14 p.m.

Approved \_\_\_\_\_

\_\_\_\_\_

Mayor/Councilmember

\_\_\_\_\_  
Town Clerk